

# HOUSE BILL 1014

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By: **Delegate F. Turner**

Introduced and read first time: February 11, 2011

Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Vital Records – Birth Certificates – Adopted Persons**

3 FOR the purpose of authorizing the Secretary of Health and Mental Hygiene to break  
4 the seal of an original certificate of birth under certain circumstances; requiring  
5 the Secretary to provide, on request, a noncertified copy of a certain birth  
6 certificate to a certain adopted person or, under certain circumstances, the  
7 descendant of a certain adopted person; requiring the Secretary to collect  
8 certain fees; requiring the Secretary to adopt certain regulations; and generally  
9 relating to birth certificates of adopted persons.

10 BY repealing and reenacting, with amendments,  
11 Article – Health – General  
12 Section 4–211 and 4–217(a) and (c)  
13 Annotated Code of Maryland  
14 (2009 Replacement Volume and 2010 Supplement)

15 BY repealing and reenacting, without amendments,  
16 Article – Health – General  
17 Section 4–217(b)  
18 Annotated Code of Maryland  
19 (2009 Replacement Volume and 2010 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
21 MARYLAND, That the Laws of Maryland read as follows:

22 **Article – Health – General**

23 4–211.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) Except as provided in subsection (c) of this section, the Secretary shall  
2 make a new certificate of birth for an individual if the Department receives  
3 satisfactory proof that:

4 (1) The individual was born in this State; and

5 (2) Regardless of the location, one of the following has occurred:

6 (i) The previously unwed parents of the individual have  
7 married each other after the birth of the individual;

8 (ii) A court of competent jurisdiction has entered an order as to  
9 the parentage, legitimation, or adoption of the individual; or

10 (iii) If a father is not named on an earlier certificate of birth:

11 1. The father of the individual has acknowledged himself  
12 by affidavit to be the father; and

13 2. The mother of the individual has consented by  
14 affidavit to the acknowledgment.

15 (b) Except as provided in subsection (c) of this section, the Secretary may  
16 make a new certificate of birth for an individual who was born outside the United  
17 States if one of the following occurred in this State:

18 (1) The previously unwed parents of the individual have married each  
19 other after the birth of the individual;

20 (2) A court of competent jurisdiction in this State has entered an order  
21 as to parentage or legitimation; or

22 (3) The father of the individual acknowledged himself by affidavit to  
23 be the father and the mother of the individual has consented by affidavit to the  
24 acknowledgment.

25 (c) The Secretary may not make a new certificate of birth if one of the  
26 following so directs the Secretary:

27 (1) The court that decrees the adoption.

28 (2) The adoptive parents.

29 (3) The adopted individual, if an adult.

30 (d) A new certificate of birth shall be prepared on the following basis:

1           (1)    The individual shall be treated as having at birth the status that  
2 later is acquired or established and of which proof is submitted.

3           (2)    If the parents of the individual were not married and paternity is  
4 established by legal proceedings, the name of the father shall be inserted. The legal  
5 proceeding should request and report to the Secretary that the surname of the subject  
6 of the record be changed from that shown on the original certificate, if a change is  
7 desired.

8           (3)    If the individual is adopted, the name of the individual shall be  
9 that set by the decree of adoption, and the adoptive parents shall be recorded as the  
10 parents of the individual.

11           (4)    The new certificate of birth shall contain wording that requires  
12 each parent shown on the new certificate to indicate his or her own Social Security  
13 number.

14           (e)    (1)    If a new certificate of birth is made, the Secretary shall:

15                   (i)    Substitute the new certificate of birth for any certificate  
16 then on file; and

17                   (ii)   Place the original certificate of birth and all records that  
18 relate to the new certificate of birth under seal.

19           (2)    The seal may be broken only:

20                   (i)    On order of a court of competent jurisdiction;

21                   (ii)   If it does not violate the confidentiality of the record, on  
22 written order of a designee of the Secretary; [or]

23                   (iii)   In accordance with Title 5, Subtitle 3A or Subtitle 4B of the  
24 Family Law Article; **OR**

25                   **(IV) IN ACCORDANCE WITH PARAGRAPH (J) OF THIS**  
26 **SECTION.**

27           (3)    A certified copy of the certificate of birth that later is issued shall  
28 be a copy of the new certificate of birth, unless:

29                   (i)    A court of competent jurisdiction orders the issuance of a  
30 copy of the original certificate of birth; or

31                   (ii)   Subtitle 3A or Subtitle 4B of the Family Law Article  
32 provides for the issuance of a copy of the original certificate of birth.

1 (f) Each clerk of court shall send to the Secretary, on the form that the  
2 Secretary provides, a report of:

3 (1) Each decree of adoption;

4 (2) Each adjudication of paternity, including the father's Social  
5 Security number; and

6 (3) Each revocation or amendment of any decree of adoption or  
7 adjudication of paternity that the court enters.

8 (g) Upon receipt of a report or decree of annulment of adoption, the original  
9 certificate of birth shall be restored to its place in the files, and the adoption certificate  
10 and any accompanying documents are not subject to inspection except upon order of a  
11 court of competent jurisdiction or as provided by regulation.

12 (h) If no certificate of birth is on file for the person for whom a new birth  
13 certificate is to be established under this section, and the date and place of birth have  
14 not been determined in the adoption or paternity proceedings:

15 (1) A delayed certificate of birth shall be filed with the Secretary as  
16 provided in § 4-210 of this subtitle before a new certificate of birth is established; and

17 (2) The new birth certificate shall be prepared on the delayed birth  
18 certificate form.

19 (i) (1) The Secretary shall, upon request, prepare and register a  
20 certificate in this State for a person born in a foreign country and who was adopted:

21 (i) Through a court of competent jurisdiction in this State; or

22 (ii) 1. Under the laws of a jurisdiction or country other than  
23 the United States and has been granted an IR-3 visa by the United States  
24 Immigration and Naturalization Service under the Immigration and Nationality Act;  
25 and

26 2. By an adopting parent who is a resident of this State.

27 (2) Except as provided in paragraph (3) of this subsection, the  
28 certificate shall be established upon receipt of:

29 (i) A certificate of adoption from the court decreeing the  
30 adoption;

31 (ii) Proof of the date and place of the child's birth; and

32 (iii) A request from the court, the adopting parents, or the  
33 adopted person if 18 years of age or over that the certificate be prepared.

1           (3) If the child was adopted under the laws of a jurisdiction or country  
2 other than the United States and has been granted an IR-3 visa by the United States  
3 Immigration and Naturalization Service under the Immigration and Nationality Act,  
4 the certificate shall be established upon receipt of:

5                   (i) An official copy of the decree from the jurisdiction or country  
6 in which the child was adopted;

7                   (ii) A certified translation of the foreign adoption decree;

8                   (iii) Proof of the date and place of the child's birth;

9                   (iv) Proof of IR-3 visa status;

10                   (v) A request from the court, the adopting parents, or the  
11 adopted person if 18 years of age or over that the certificate be prepared; and

12                   (vi) Proof that the adopting parent is a resident of this State.

13           (4) The certificate shall be labeled "Certificate of Foreign Birth" and  
14 shall show the actual country of birth.

15           (5) A statement shall also be included on the certificate indicating that  
16 it is not evidence of United States citizenship for the child for whom it is issued.

17           **(J) (1) THE SECRETARY SHALL PROVIDE, ON REQUEST, A**  
18 **NONCERTIFIED COPY OF THE ADOPTED PERSON'S UNALTERED ORIGINAL BIRTH**  
19 **CERTIFICATE TO:**

20                   **(I) THE ADOPTED PERSON, IF THE ADOPTED PERSON IS AT**  
21 **LEAST 21 YEARS OF AGE AND WAS BORN OR ADOPTED IN THE STATE; OR**

22                   **(II) IF THE ADOPTED PERSON IS DECEASED, ANY**  
23 **DESCENDANT OF THE ADOPTED PERSON.**

24           **(2) THE DEPARTMENT SHALL COLLECT THE FEE PROVIDED IN §**  
25 **4-217 OF THIS SUBTITLE.**

26           **(3) THE SECRETARY SHALL ADOPT REGULATIONS TO IMPLEMENT**  
27 **THE PROVISIONS OF THIS SUBSECTION.**

28 4-217.

29           (a) (1) Except as provided in subsection (b) of this section, the Secretary  
30 shall provide, on request, any person authorized by regulations adopted under this

1 subtitle with a certified or abridged copy of a birth, death, or fetal death certificate  
2 registered under this subtitle or of the certificate of a marriage performed after June  
3 1, 1951.

4 (2) Except as provided in subsection (b) of this section, a local health  
5 department may:

6 (i) Access electronically from the Department a certified or  
7 abridged copy of a birth certificate registered under this subtitle; and

8 (ii) On request, provide any person authorized by regulations  
9 adopted under this subtitle with a certified or abridged copy of a birth certificate  
10 registered under this subtitle.

11 (3) (i) The Secretary shall provide on request, to any person  
12 authorized by regulation adopted under this subtitle, a commemorative birth  
13 certificate.

14 (ii) The Department shall set a fee for the commemorative birth  
15 certificate.

16 (iii) The commemorative birth certificate shall:

17 1. Be in a form consistent with the need to protect the  
18 integrity of vital records but suitable for display; and

19 2. Have the same status as evidence as the original birth  
20 certificate.

21 (iv) A portion of the funds collected under this paragraph shall  
22 go to the Department for the production costs of issuing the commemorative birth  
23 certificates. The remainder of the funds collected shall be paid into the Children's  
24 Trust Fund established under § 13-2207 of this article to provide funding for the Child  
25 Abuse Medical Providers (Maryland CHAMP) Initiative.

26 (v) The Secretary shall adopt regulations to implement the  
27 provisions of this paragraph.

28 **(4) THE SECRETARY SHALL PROVIDE, ON REQUEST, TO ANY**  
29 **PERSON AUTHORIZED UNDER § 4-211(J) OF THIS SUBTITLE, A NONCERTIFIED**  
30 **COPY OF A BIRTH CERTIFICATE.**

31 (b) (1) A certified or abridged copy of a birth certificate may be issued  
32 only:

33 (i) On order of a court of competent jurisdiction;

- 1 (ii) On request of the individual to whom the record relates;  
2 (iii) On request of a parent, guardian, surviving spouse, or other  
3 authorized representative of the individual; or  
4 (iv) In accordance with Title 5, Subtitle 3A or Subtitle 4B of the  
5 Family Law Article.

6 (2) A certified or abridged copy of a birth certificate may contain only  
7 the personal information that appears on the birth certificate and may not include any  
8 confidential medical information that appears on the birth certificate.

9 (3) Birth certificate information may not be given if it is to be used for  
10 commercial solicitation or private gain.

11 (4) A noncertified copy of a birth certificate including confidential  
12 medical information may be provided to a unit of the Department to carry out its legal  
13 mandate or to conduct Institutional Review Board (IRB) approved research or study.  
14 Any report resulting from this research or study may not contain personal identifiers  
15 unless authorized by the subject of the record or the subject's parent or authorized  
16 representative.

17 (5) A copy of a birth certificate may be given to the Maryland  
18 Immunization Program to improve childhood immunization rates.

19 (c) (1) Except as otherwise provided by law, the Department shall collect  
20 a \$12 fee:

21 (i) For each certified or abridged copy of a birth, death, fetal  
22 death, marriage, or divorce verification certificate;

23 (ii) For a report that a search of the files was made and the  
24 requested record is not on file;

25 (iii) For each change to a certificate made later than one year  
26 after the certificate has been registered with the Department; [or]

27 (iv) To process an adoption, foreign adoption, or legitimation; **OR**

28 **(V) FOR EACH NONCERTIFIED COPY OF A BIRTH**  
29 **CERTIFICATE PROVIDED UNDER § 4-211(J) OF THIS SUBTITLE.**

30 (2) From the fee the Department collects under paragraph (1) of this  
31 subsection, the Department shall transfer the entire fee to the General Fund.

1                   (3)   (i)   Any local health department may set and collect a fee for  
2 processing and issuing a birth certificate, or for a report that a search of the files was  
3 made and the requested record is not on file, that covers:

4                               1.   The administrative costs of providing this service; and

5                               2.   The requirements of subparagraph (iii) of this  
6 paragraph.

7                               (ii)   The fee set by the local health department for processing  
8 and issuing a birth certificate or for a report under subparagraph (i) of this paragraph  
9 may not exceed the actual costs to the local health department for processing and  
10 issuing a birth certificate or a report.

11                              (iii)   From the fee the local health department collects under  
12 subparagraph (i) of this paragraph, \$10 shall be transferred to the General Fund.

13                              (iv)   Prior to setting and collecting a fee for processing and  
14 issuing a birth certificate or for a report under subparagraph (i) of this paragraph, the  
15 local health department shall enter into a memorandum of understanding with the  
16 Department of Health and Mental Hygiene that outlines the local health department's  
17 fee structure.

18                   (4)   The Department or a local health department may collect a fee for  
19 a certificate requested by an agency of the State or any of its political subdivisions.

20                   (5)   The Secretary may waive all or part of a fee if chargeable to an  
21 agency of the United States.

22                   (6)   The Department may not collect a fee for a copy of a vital record  
23 issued to:

24                              (i)   A current or former member of the armed forces of the  
25 United States; or

26                              (ii)   The surviving spouse or child of the member, if the copy will  
27 be used in connection with a claim for a dependent or beneficiary of the member.

28                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
29 October 1, 2011.